

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 16, 2017

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCISCO SANCHEZ-HINOJOSA,

Defendant.

No. 4:15-CR-6006-SMJ

**ORDER DENYING
DEFENDANT'S MIXED MOTION
PURSUANT TO 28 U.S.C. § 2255
AND 18 U.S.C. § 3582(C)(2)
MEMORANDUM IN SUPPORT OF
28 U.S.C. § 2255**

Before the Court, without oral argument, is Defendant Francisco Sanchez-Hinojosa's Mixed Motion Pursuant to 28 U.S.C. § 2255 and 18 U.S.C. § 3582(c)(2) Memorandum in Support of 28 U.S.C. § 2255. ECF No. 72. Defendant is proceeding pro se. In his motion, Defendant requests that this Court apply a two-level reduction to his sentence pursuant to Amendment 782 to the United States Sentencing Commission's Guidelines ("USSG" or "Guidelines"). *Id.* He also asks for leave to amend and supplement his motion citing *Mathis v. United States*, 136 S.Ct. 2243 (2016). *Id.* at 14–15. The government opposes Defendant's motion. ECF No. 77. Having reviewed the pleadings and the file in this matter, the Court is fully informed and denies the motion.

1 As an initial matter, the Court notes that though Defendant's motion cites
2 both 28 U.S.C. § 2255 and 18 U.S.C. § 3582(c)(2), substantively the motion seeks
3 a sentence reduction pursuant to Amendment 782. Thus, the Court construes
4 Defendant's request as brought pursuant to Amendment 782 and the corresponding
5 statute, 18 U.S.C. § 3582(c)(2).

6 On November 1, 2014, the United States Sentencing Commission issued
7 Amendment 782, which reduced recommended sentences for certain drug crimes,
8 including violations of 21 U.S.C. § 841(a)(1) and (b)(1). U.S. Sentencing
9 Guidelines Manual (hereinafter "USSG"), sup. app'x. C., amend. 782 & § 2D1.1
10 (2014). The Amendment became effective on November 1, 2014 as well. *Id.* at sup.
11 app'x. C., amend. 782. The Guidelines authorize courts to apply Amendment 782
12 retroactively to reduce the length of already-imposed sentences. *United States v.*
13 *Navarro*, 800 F.3d 1104, 1107 (9th Cir. 2015) (citing USSG, sup. app'x. C. amend.
14 788 & § 1B1.10 (2014)).

15 Here, Amendment 782 is inapplicable. The criminal complaint initiating this
16 case was filed on January 28, 2015. ECF No. 1. An indictment followed on February
17 10, 2015, along with a superseding indictment two months later on April 14, 2015.
18 ECF Nos. 15 and 31. Defendant entered into a plea agreement on May 22, 2015,
19 ECF No. 53, which the Court accepted on October 1, 2015, ECF No. 63. Six days
20 later, on October 7, 2015, the Court sentenced Defendant to ten-years imprisonment

1 and five-years of supervised release. ECF No. 65. As the Presentence Investigation
2 Report reflects, the Court considered the Guidelines, which at that time already
3 reflected the changes imposed by Amendment 782. ECF No. 58. Accordingly,
4 Defendant has already received Amendment 782's benefits, foreclosing any further
5 reductions pursuant to that specific amendment, and the Court need not address any
6 of the other arguments raised in the briefing.


7 Lastly, as to Defendant's request for leave to amend his motion by
8 supplementing it in light of *Mathis*, the Court finds that amending the present
9 motion would be futile for the reasons discussed above.

10 Accordingly, **IT IS HEREBY ORDERED:**

11 **1.** Defendant's Mixed Motion Pursuant to 28 U.S.C. § 2255 and 18
12 U.S.C. § 3582(c)(2) Memorandum in Support of 28 U.S.C. § 2255,
13 **ECF No. 72, is DENIED.**

14 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
15 provide copies to all counsel.

16 **DATED** this 16th day of February 2017.

17 
18 SALVADOR MENDEZ, JR.
19 United States District Judge
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